

# **EXHIBIT V**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

CELESTE WILLIAMS, LAUREN CRUZ, EMANUEL  
O'NEALE, BRANDON STURMAN, LATRESHA HALL,  
LAKEISHA MITCHELL, CHRISTINE BORBELY and  
JANINE APONTE on behalf of themselves and  
others similarly situated,

Plaintiffs,

-against-

Index No.

07cv3978

TWENTY ONES, INC., d/b/a THE 40/40  
CLUB, SHAWN CARTER p/k/a JAY-Z,  
JUAN PEREZ and DESIREE GONZALES,

Defendants.

- - - - -X

January 28, 2008

9:54 a.m.

DEPOSITION of ANITA GILLETTE, a Plaintiff  
herein, taken pursuant to Notice, and held  
at the offices of Littler Mendelson, P.C.,  
885 Third Avenue, New York, New York, before  
Leeann Bertorelli, a Court Reporter and  
Notary Public of the State of New York.



ANITA GILLETTE

26

28

1 MS. SHEINKIN: Can you mark this as  
2 D.

3 (Gillette Exhibit D,  
4 ACKNOWLEDGEMENT FORM, was  
5 marked for identification.)

6  
7  
8 **Q. Is this the acknowledgement form you**  
9 **were referring to?**

10 A. I'm not sure if this is the form,  
11 specifically. It was a booklet. It wasn't this.  
12 It was like a booklet, employee manual.

13 **Q. And you signed something that you**  
14 **had received it. This says, I have read and**  
15 **understand the employee manual.**

16 A. I don't -- this -- I received an  
17 employee manual. I believe. 30 to 45 days after I  
18 worked there. This I signed, obviously.

19 **Q. Okay. This was signed on May 12th?**

20 A. Correct.

21 **Q. So this was when you began working**  
22 **at the 40/40 Club?**

23 A. Correct.

24 **Q. So what documents are you referring**

1 A. No, I don't.

2 **Q. Did you go to regular staff**  
3 **meetings?**

4 A. Yes.

5 **Q. How often?**

6 A. Every Monday.

7 **Q. And were they at the same time every**  
8 **Monday?**

9 A. I think it's 5:00, I believe.

10 **Q. And who attended those meetings?**

11 A. Employees.

12 **Q. All employees?**

13 A. I think just front-of-the-house  
14 employment.

15 **Q. Who would that consist of?**

16 A. Servers and bartenders. Yeah,  
17 servers and bartenders.

18 **Q. So not all front of the house,**  
19 **bussers weren't there?**

20 A. I don't think they were. I'm not  
21 sure.

22 **Q. So only for servers and bartenders?**

23 A. Yes.

24 **Q. And those are the tipped employees?**

1 A. Yes, I believe so.

2 **Q. Who ran the meetings?**

3 A. Managers and/or the owner.

4 **Q. The "owner" referring to --**

5 A. Desiree.

6 **Q. Did employees also participate in**  
7 **the meetings?**

8 A. Yes.

9 **Q. If they ever needed to raise any**  
10 **comments or questions that you had?**

11 A. Uh-huh.

12 **Q. Sorry. Just so she can take it down**  
13 **I need yes or no.**

14 A. Oh, yes.

15 **Q. What Shawn Carter ever present for**  
16 **the meetings?**

17 A. No.

18 **Q. Was Juan Perez ever present?**

19 A. No, not at any meeting I attended.

20 **Q. And did you attend all the meetings**  
21 **when you were scheduled to work on a Monday?**

22 A. I don't think -- I don't know if I  
23 attended every single meeting. But I attended  
24 the ones that I was required to attend. I

1 **to when you say, I have read and understood the**  
2 **employee manual?**

3 A. Like I said, I personally received a  
4 document, which is big booklet, which was the  
5 manual. I did not receive that until 30 to 45  
6 days after I worked there. This document must  
7 have been something that I signed.

8 **Q. But do you recall what you were**  
9 **referring to when you said, I have read and**  
10 **understood the employee manual?**

11 A. No.

12 **Q. When you signed this you hadn't read**  
13 **and understood the employee manual?**

14 MR. KIRSCHENBAUM: Objection.

15 A. Well, this might be a part of a  
16 different -- I don't know what manual you're  
17 referring to. But I know as far as that big  
18 handbook that we received, I didn't receive that  
19 until 30 to 45 days after I started working.  
20 This might be pertaining to something else.

21 **Q. But you don't --**

22 A. A smaller booklet or some other  
23 information.

24 **Q. But you don't recall?**

ANITA GILLETTE

30

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1 attended the ones I could attend.  
 2 **Q. And you attend the meetings on days**  
 3 **that you were scheduled to work?**  
 4 A. Days you were scheduled to work, and  
 5 days you were not scheduled to work.  
 6 **Q. So you would come in --**  
 7 A. For the meeting.  
 8 **Q. Okay. Then why would you not be**  
 9 **required to attend any particular meeting?**  
 10 A. Well, sometimes -- I don't know if I  
 11 attended every single one. You're asking me if I  
 12 attended every single meeting; correct?  
 13 **Q. Uh-huh.**  
 14 A. Well, I'm not sure if I attended  
 15 every single meeting, that's what I'm saying.  
 16 **Q. Do you recall how many meetings that**  
 17 **you missed?**  
 18 A. I don't recall if I missed any or if  
 19 I didn't miss any. I'm saying I don't know if I  
 20 attended every meeting.  
 21 **Q. Okay. But you don't have any**  
 22 **recollection of not having attended any**  
 23 **particular meeting?**  
 24 A. Not specifically.

1 **Q. What time did the 40/40 Club open?**  
 2 A. I think 5, 4:30, something like  
 3 that.  
 4 **Q. Okay. And what time did it close?**  
 5 A. 4:00 on -- well, it depended. I  
 6 mean sometimes they would close the restaurant,  
 7 the club, down early, if there was no business.  
 8 But on the weekends they close at 4.  
 9 **Q. So it would be during the weekdays**  
 10 **that the club would sometimes close early?**  
 11 A. Right. Depending on who was there,  
 12 which manager was there.  
 13 **Q. What would the difference between**  
 14 **the manager be?**  
 15 A. What do you mean?  
 16 **Q. You said depending on which manager?**  
 17 A. Right.  
 18 **Q. Some managers were more likely to**  
 19 **close early than others?**  
 20 A. Right. Or send you home.  
 21 **Q. Okay. When the club closed early,**  
 22 **what time would that usually be?**  
 23 A. Maybe 2, 3. I'm not sure.  
 24 **Q. After the club stopped serving,**

1 **which on the weekend would be 4, sometimes**  
 2 **earlier during the week. Was there other work**  
 3 **that you had to perform?**  
 4 A. Yes.  
 5 **Q. What would you do?**  
 6 A. We had to clean the entire club.  
 7 You had to clean your area. Everybody had to  
 8 help everybody else finish their area. You were  
 9 stuck there until everything was done.  
 10 **Q. What did that consist of?**  
 11 A. Just basically cleaning your  
 12 section, making sure it was clean, fluffing  
 13 pillows and organizing pillows so they were  
 14 correct. They had a format, making you clean the  
 15 side stations, that kind of thing, sweeping  
 16 everything.  
 17 **Q. How long did that take?**  
 18 A. Anywhere from an hour to two hours,  
 19 sometimes depending. And you needed to wait to  
 20 get your money. Everybody had to cash out.  
 21 **Q. Wait to get what money?**  
 22 A. Well, you had to, you know, organize  
 23 your money. So then you had to wait for them to  
 24 take your money -- their house money. So you had

1 to sit around and wait after you finish cleaning.  
 2 **Q. Who would you be giving that money**  
 3 **to?**  
 4 A. Desiree or Juan at certain times, or  
 5 the manager.  
 6 **Q. You were required to clock in and**  
 7 **out?**  
 8 A. Yeah.  
 9 **Q. And that was on POSitouch?**  
 10 A. Right.  
 11 **Q. So you would clock in, first thing?**  
 12 A. Uh-huh.  
 13 **Q. And then clock out?**  
 14 A. Yup.  
 15 **Q. And you needed to be clocked in in**  
 16 **order to take orders -- to take customer's**  
 17 **orders; correct?**  
 18 A. Correct.  
 19 **Q. When you clocked out, were you**  
 20 **required to report the tips that you had earned**  
 21 **that shift?**  
 22 A. Yes.  
 23 **Q. Could you clock out without**  
 24 **reporting your tips?**

ANITA GILLETTE

34

36

1 A. No, you couldn't.

2 **Q. And did you accurately report your**  
3 **tips on POSitouch?**

4 A. Yeah, you're legally binded to  
5 report eight percent of your tips; at that time  
6 that was the law.

7 **Q. So you reported eight percent of**  
8 **your tips?**

9 A. Well, it depended. I don't  
10 necessarily remember what I did on specific days.  
11 I reported whatever I reported. Whatever  
12 documents indicate that most likely that's what I  
13 reported.

14 **Q. Just so I understand, the number you**  
15 **reported was based on a percentage of the tips**  
16 **that you had earned?**

17 MR. KIRSCHENBAUM: Objection.

18 That's not what she said.

19 **Q. You can answer.**

20 A. All right. I reported, you know,  
21 basically whatever I reported on a specific day.

22 **Q. Well, when you were punching out,**  
23 **I'm trying to understand, how you would determine**  
24 **what number to put in?**

35

1 A. Well, like I said, it was legally  
2 eight percent you were supposed to declare. So  
3 it would be based on a certain amount of money.  
4 Whatever money I made it would be based on that.

5 **Q. But not necessarily always eight**  
6 **percent. Is there any reason you wouldn't put**  
7 **eight percent, if that's what you were legally**  
8 **required to do?**

9 A. No. No reason to do that.

10 **Q. Did you understand that your tips**  
11 **were considered income?**

12 A. Yes.

13 **Q. And they were subject to tax**  
14 **withholdings?**

15 A. Correct.

16 **Q. And did you understand that the club**  
17 **would withhold taxes on your tips from your**  
18 **wages?**

19 A. Correct.

20 **Q. Other than what the club withheld,**  
21 **did you ever pay any taxes for the tips you**  
22 **earned at the 40/40 Club?**

23 MR. KIRSCHENBAUM: Objection. That  
24 question assumes something that my client

1 has no knowledge of.

2 MS. SHEINKIN: The question was  
3 whether or not she paid taxes.

4 MR. KIRSCHENBAUM: You said other  
5 than what the club withheld. She has no  
6 way of knowing that the club withheld any  
7 money or did not withhold any money.

8 **Q. Ms. Gillette, I know you said you**  
9 **understood that the club withheld taxes on your**  
10 **tips from your wages; correct?**

11 A. Right. All employers do that.

12 **Q. Okay. So other than that amount,**  
13 **did you ever pay any taxes for the tips you**  
14 **earned at the 40/40 Club?**

15 A. To the government?

16 **Q. Yeah.**

17 A. No.

18 **Q. Did you ever forget to clock in?**

19 A. I may have.

20 **Q. Well, could you have -- I guess you**  
21 **said you couldn't take orders unless you clocked**  
22 **in?**

23 A. Correct.

24 **Q. So then would it be possible for you**

37

1 **to not clock in?**

2 A. Correct.

3 **Q. Correct? It would not be possible?**

4 A. Well, like you said, if you can't  
5 take orders unless you clocked in, then,  
6 obviously, I must have clocked in.

7 **Q. Did you ever forget to clock out?**

8 A. I don't believe so.

9 **Q. You don't recall any time when you**  
10 **forgot to clock out?**

11 A. No. I don't recall.

12 **Q. Do you know what the policy was if**  
13 **you did forget to clock out?**

14 A. Not off the top of my head. I don't  
15 know. Actually, I don't know.

16 **Q. What's the latest that you ever**  
17 **worked at the 40/40 Club?**

18 A. Latest time I left and clocked out?  
19 Probably, 7.

20 **Q. When was that?**

21 A. I don't know.

22 **Q. How often do you think you worked --**  
23 **stayed until 7?**

24 A. Sporadically.

ANITA GILLETTE

46

48

1 Q. And you also had them sign the  
2 credit card?

3 A. Correct.

4 Q. Was there a minimum amount that a  
5 customer had to buy for a credit card purchase?

6 A. I don't remember if there was or was  
7 not.

8 Q. Okay. And before presenting the  
9 bill you added a 20 percent gratuity?

10 A. Correct.

11 Q. And you did that to every order?

12 A. Yeah, pretty much.

13 Q. What do you mean "pretty much"?

14 A. I think every order we pretty much  
15 added 20 percent. I mean, like I said -- so I  
16 think there might have been one or two times  
17 maybe -- about five times where you use your  
18 discretion. You figure you'd make more money by  
19 not doing that. If one person ordered a drink  
20 you wouldn't put 20 percent on there; it wasn't  
21 going to be much.

22 Q. So the only time you would put 20  
23 percent is if you thought you could get more?

24 A. Right.

1 Q. A greater amount of tip by leaving  
2 it off?

3 A. Yup.

4 Q. And there was a function on  
5 POSitouch that permitted you to add the 20  
6 percent?

7 A. Correct.

8 Q. Okay. If a customer paid you and  
9 gave you cash, what did you do with the money?

10 A. You would hold it.

11 Q. Okay. Were you wearing an apron --

12 A. Yeah.

13 Q. -- or you had something, and you  
14 just kept all the money in there?

15 A. Correct.

16 Q. And that included the sale amount  
17 and the tip?

18 A. Right.

19 Q. Did you keep them separate or  
20 together?

21 A. Varied. It depends. It depends on  
22 how I felt. Sometimes I put the cash away. I  
23 think, primarily, I kept it all together.

24 Q. Okay. And what would you do with

1 the credit card receipt?

2 A. What would I do with it?

3 Q. Uh-huh. Would you also hold that?

4 A. Yeah.

5 Q. And you hold those for the entire  
6 night?

7 A. Shift, uh-huh.

8 Q. Until the end of your shift. So you  
9 were holding your money and the clubs money  
10 through your shift.

11 A. Correct.

12 Q. Okay. And then at the end of the  
13 shift, what was the process?

14 A. You would -- well, you mean like as  
15 far as --

16 Q. Like a cash out.

17 A. Cash out. So you'd print your  
18 report, and then you would do the normal  
19 deduction. I don't remember what the specifics  
20 were. But you would then separate your money  
21 from the house's money.

22 Q. What do you mean by "the normal  
23 deduction"?

24 A. Well, you have to tip out the

47

49

1 bartender. I think -- I don't know if we had a  
2 busser system. I'm not sure.

3 Q. Okay. So you were required to tip  
4 out to some employees?

5 A. Uh-huh.

6 Q. And you would do that before cashing  
7 out?

8 A. During your cash out you would  
9 separate -- you would separate your house, and  
10 then what you earned in tips. And from what you  
11 earned in tips you'd separate what you were  
12 taking home, and what you were giving out to  
13 other employees.

14 Q. Okay. Which employees did you tip  
15 out?

16 A. Bartenders, and I'm not sure if we  
17 had bussers. I don't remember.

18 Q. How much did you tip out to the  
19 bartenders?

20 A. I don't know.

21 Q. You don't recall? So you would  
22 print your report, and then you said you would  
23 give the club their money?

24 A. Right.

ANITA GILLETTE

50

52

1 Q. And you kept all of the tips that  
2 you had earned during the night?

3 A. No. I gave part of the tips.

4 Q. Other than what you tipped out?

5 A. Correct.

6 Q. And concerning the credit card  
7 receipts, you would hold on in cash to whatever  
8 amount you had earned in tips on credit cards?

9 MR. KIRSCHENBAUM: Objection.  
10 That's not what she said.

11 MS. SHEINKIN: I'm asking a  
12 question.

13 MR. KIRSCHENBAUM: All right.

14 A. I'm sorry. Can you repeat the  
15 question.

16 Q. When you were going through the cash  
17 out process, you had cash and you had credit card  
18 receipts.

19 A. Uh-huh.

20 Q. Would you deduct the amount of the  
21 credit card tips you had received from the amount  
22 of cash you were turning over to the club?

23 A. I'm not sure what the process was.

24 But I know that you received the payment. If

51

1 somebody tipped you on the credit card, you  
2 receive that money. I'm not sure if they gave it  
3 to you afterwards or prior; I don't remember the  
4 details.

5 But you received what you earned on  
6 the tips, unless there was a problem with the  
7 credit card transaction. If they felt that it  
8 wasn't sufficient then they would take your  
9 money.

10 Q. And you're still referring to the  
11 cash out procedure?

12 A. Right.

13 Q. What would be a problem with the  
14 credit card?

15 A. If they felt the signatures weren't  
16 enough or you missed, you know, you didn't take a  
17 number down, or something was off.

18 Q. And when you say "they would take  
19 your money," who --

20 A. Management.

21 Q. -- are you referring to?

22 A. Management.

23 Q. Was there somebody in particular you  
24 were working with?

1 A. Either the owners or the managers at  
2 the time.

3 Q. What -- who are you referring to by  
4 "owners"?

5 A. Desiree.

6 Q. Anyone else?

7 A. Well, the owners, they're  
8 collectively together, so.

9 Q. But you're referring to Desiree --

10 A. Correct.

11 Q. -- as the person?

12 A. Correct.

13 Q. Did that happen to you?

14 A. Yes.

15 Q. How many times?

16 A. I think three -- about three times.

17 Maybe three or four times. I'm not sure. I  
18 remember the first time it happened.

19 Q. All right. Tell me about that.

20 When was that?

21 A. It was the first day I worked.

22 Q. Your first day?

23 A. Uh-huh. First day I worked by

24 myself, like taking care of my own separate --

53

1 Q. After training?

2 A. Right. Uh-huh. They -- well, she  
3 didn't feel like it was sufficient. She took  
4 \$70. I believe, from me at that specific time.

5 Q. Did you receive a write-up?

6 A. I didn't sign documents that day,  
7 no.

8 Q. What did the \$70 --

9 A. It was the total amount of the  
10 check, I believe.

11 Q. And that was with Desiree?

12 A. Yes.

13 Q. And what was the problem with the  
14 credit card?

15 A. I don't remember the specifics, but  
16 there was an error made on my account. So she  
17 took the check -- the value of the check.

18 Q. But you don't have any documents  
19 evidencing that?

20 A. They gave me the receipt and said  
21 come back. And I think -- I don't remember. I  
22 was told it was 90 days, but I don't remember the  
23 time period they told me initially. But they  
24 said, take this and come back for your money

ANITA GILLETTE

54

56

1 after the credit card clears with the bank.

2 **Q. Did you do that?**

3 A. I went back, but nobody said  
4 anything.

5 **Q. You went back to --**

6 A. I asked the manager about it.

7 **Q. What manager?**

8 A. David.

9 **Q. Do you recall his last name?**

10 A. No.

11 **Q. And what did you say?**

12 A. I said, so am I going to ever get

13 this credit card money back, and he said, I don't  
14 know.

15 **Q. Did you ever follow up?**

16 A. No.

17 **Q. Did he give you any other  
18 information?**

19 A. No, not specifically.

20 **Q. Did you ever ask Desiree about it?**

21 A. No.

22 **Q. So you still have that receipt?**

23 A. No.

24 **Q. What did you do with it?**

1 A. I discarded it most likely. I don't  
2 have it.

3 **Q. You looked for it?**

4 A. Not specifically. I don't think I  
5 would have that after all this time. It was a  
6 credit card receipt, or a copy or something that,  
7 you know, showed that they took that money from  
8 me.

9 **Q. Okay. So there were two other  
10 times?**

11 A. Yes.

12 **Q. When was the second time?**

13 A. I don't remember the day.

14 **Q. How long after you started working?**

15 A. Maybe a month or something like  
16 that. I'm not sure.

17 **Q. And what were the circumstances?**

18 A. I don't remember that incident.

19 **Q. You don't remember anything about  
20 it?**

21 A. No.

22 **Q. Do you remember who took the money?**

23 A. No.

24 **Q. Do you remember how much it was?**

1 A. I don't remember the amount either.

2 I think it was like -- I think it was the tip.

3 It wasn't even the bill. I think it was the tip  
4 that was on there.

5 **Q. So they only held the amount of your  
6 tip?**

7 A. Right. The second time.

8 **Q. And did you go back after 90 days to  
9 ask for that money?**

10 A. No.

11 **Q. Why not?**

12 A. Because at that time I had already  
13 become accustomed to the practices there. So I  
14 knew I wasn't getting the money back.

15 **Q. Well, that was just the second time  
16 it happened; right?**

17 A. Right.

18 **Q. And you never had asked Desiree the  
19 first time about the money?**

20 A. Correct.

21 **Q. And when was the third time?**

22 A. I was doing a party with another  
23 person. We had -- we were pooling tips. And  
24 then there was an error made on our accounts. I

55

57

1 think it was in the sum of 200. Something over  
2 \$200 that we had lost.

3 **Q. So \$200 that club didn't receive?**

4 A. That they took from us.

5 **Q. Who was the other person you're  
6 referring to?**

7 A. Some girl. I don't remember her  
8 name.

9 **Q. Can you describe her?**

10 A. As far as what?

11 **Q. What she looked like?**

12 A. She was -- black or brown hair.  
13 She's African American. I think she spoke  
14 Spanish. She might have been Dominican heritage.

15 **Q. She was another server?**

16 A. Yes.

17 **Q. And do you recall the party?**

18 A. I don't think it was a party. I  
19 think we were working a specific area.

20 **Q. Okay. And you pooled your tips  
21 together?**

22 A. Right.

23 **Q. And do you know which one of you it  
24 was that didn't follow the credit card**



ANITA GILLETTE

82

84

1 A. I think it was just what you -- what  
 2 the money was, and then zero dollar amount.  
 3 **Q. Did it have hours indicated?**  
 4 A. It may have. I believe it may have.  
 5 **Q. Did you ever ask why the amount was**  
 6 **zero?**  
 7 A. No.  
 8 **Q. Did you have an understanding of why**  
 9 **the amount was zero?**  
 10 A. No.  
 11 **Q. I believe you said it was common**  
 12 **practice at restaurants to withhold the taxes**  
 13 **from your tip amount?**  
 14 A. Right. But it's impossible for you  
 15 to earn a certain amount of money, and then for  
 16 it to be taxed out that way.  
 17 **Q. That's impossible?**  
 18 A. Well, I mean that's my understanding  
 19 of it.  
 20 **Q. So that's never happened to you at**  
 21 **any other restaurant?**  
 22 A. Some places where you received a low  
 23 check, like maybe a \$12 check or a \$40 check.  
 24 **Q. But never zero?**

83

1 A. Not that I remember, any specific  
 2 restaurant where I worked where I received no  
 3 money at all.  
 4 **Q. Are there restaurants that you**  
 5 **worked at where you made more in tips than at the**  
 6 **40/40 Club?**  
 7 A. Some were pretty close.  
 8 **Q. Where?**  
 9 A. Josie's.  
 10 **Q. Is that it?**  
 11 A. Yeah, pretty much.  
 12 **Q. "Pretty close," do you mean as much**  
 13 **or --**  
 14 A. Like as far as like 200-, \$300 a  
 15 night, yeah. That's close. That's as close as  
 16 it got.  
 17 **Q. So you made \$200 a night less at**  
 18 **Josie's?**  
 19 A. No, I'm saying as far as when I made  
 20 two to \$300 at the 40/40, it was similar to what  
 21 I was making at the other restaurant.  
 22 **Q. Was that an average night, 200-,**  
 23 **\$300, or was that a low night?**  
 24 A. At what restaurant?

1 **Q. At the 40/40 Club.**  
 2 A. That's pretty average for me,  
 3 specifically. Other people made more money.  
 4 **Q. Why is that?**  
 5 A. They had better sections.  
 6 **Q. How much did you typically make a**  
 7 **week in tips at the 40/40 Club?**  
 8 A. I'd say anywhere between, depending  
 9 on the week, anywhere between \$600 to like \$800,  
 10 I think.  
 11 **Q. In Paragraph 4 of your declaration,**  
 12 **you say that you received tips, and that with**  
 13 **conversations with other employees you know it**  
 14 **was the common practice of defendants not to pay**  
 15 **employees who received a tip a minimum wage?**  
 16 A. Right.  
 17 **Q. Who were you referring to, that you**  
 18 **had conversations with?**  
 19 A. Other employees. Like the ones I  
 20 indicated before.  
 21 **Q. Larry?**  
 22 A. Right.  
 23 **Q. Do you recall anyone else you had a**  
 24 **conversation with on this?**

85

1 A. No, not specifically. I mean just  
 2 general conversation. We all complained about  
 3 not receiving any kind of paycheck.  
 4 **Q. Did you ever raise that issue at a**  
 5 **staff meeting?**  
 6 A. No. I don't believe I did, no.  
 7 **Q. Did anyone at the meetings you were**  
 8 **present at?**  
 9 A. They may have. I don't remember. I  
 10 don't think so though.  
 11 **Q. Did you ever put a complaint into**  
 12 **the complaint box?**  
 13 A. No.  
 14 **Q. So you don't recall any specific**  
 15 **conversations about not receiving wages with**  
 16 **anyone other than Larry?**  
 17 A. I remember that specific situation  
 18 speaking with him about that. The connotation of  
 19 the conversation.  
 20 **Q. I'm sorry. The connotation?**  
 21 A. The connotation of the conversation,  
 22 basically what was said. This is how things are,  
 23 and that you don't receive a paycheck, basically.  
 24 And that you only get tips.

ANITA GILLETTE

94

96

1 A. Okay.

2 **Q. It says, the 40/40 Club did not**  
 3 **require us to fill out any sort of tip**  
 4 **declaration.**

5 A. No.

6 **Q. But you did declare your tips?**

7 A. At the end on the POSitouch.

8 **Q. So you were required to declare**  
 9 **tips?**

10 A. Yeah, but there was no form.

11 **Q. Okay. But you declared your tips?**

12 A. Right.

13 **Q. And at the end of the paragraph you**  
 14 **say, based on the tips given to you and was**  
 15 **eventually paid to you, you believe you didn't**  
 16 **receive all of your tips due?**

17 A. Right. I didn't receive the tips  
 18 due for the parties that I worked. I did not  
 19 receive checks afterwards.

20 **Q. So if you received a check or were**  
 21 **given cash, you were given all the money that you**  
 22 **were due for that party?**

23 MR. KIRSCHENBAUM: Objection. She  
 24 didn't say that.

1 MS. SHEINKIN: It's a question.

2 **Q. You can answer.**

3 A. So I received the money that I, you  
 4 know, like I wait on tables. And I received the  
 5 money that I earned for that day. But if there  
 6 was a party, that money I did not receive until  
 7 later. That's what I'm saying.

8 **Q. So your complaint is that you didn't**  
 9 **receive the tip money right away?**

10 A. For some events. For some parties,  
 11 correct.

12 **Q. But that eventually you did receive**  
 13 **that money?**

14 A. For some of them. Some of them I  
 15 just didn't keep track of the money, because I  
 16 had left. And I knew I wasn't getting it back.

17 **Q. So the only parties you didn't**  
 18 **receive payment for are parties that would have**  
 19 **been paid after you had left?**

20 A. After the fact. After the fact of  
 21 the party.

22 **Q. Was it after you left employment?**

23 A. Yeah, I left, and I didn't go back

24 to the money. Because other people had come back

1 for the money, and we were standing there, and we  
 2 all were kind of like in shock because they  
 3 weren't -- there were several people. I remember  
 4 two people, specifically one guy who stood there  
 5 for probably an hour, waiting for somebody to  
 6 give him the money. And we just stood there and  
 7 watched him stand there.

8 **Q. The day of the party?**

9 A. No, this was before, when I was  
 10 working there. I knew that once you quit, you  
 11 weren't going to get your money back, basically.

12 **Q. But you never went to get your**  
 13 **money?**

14 A. Well, why would I go get money that  
 15 I knew I wasn't going to receive.

16 **Q. Well, your knowledge for not**  
 17 **receiving it is based on?**

18 A. I worked there for that period of  
 19 time. And everybody who came back left there  
 20 after a week of working or wherever, never  
 21 received their money. While people worked there,  
 22 they said they never received money. When I  
 23 started people complained about they never  
 24 received money. So I wasn't going to go back and

95

97

1 stand there and wait for one of them to give me  
 2 money that I knew I wasn't going to receive.  
 3 Because nobody else received it. And I'm not  
 4 going to think that they would make an exception  
 5 for myself.

6 **Q. Who is it that you're referring to?**

7 A. Some guy, I don't know. He worked  
 8 there maybe a week or two. And I remember he  
 9 came back. And I was -- I think I had opened  
 10 that day. It was around 6:00 maybe, and he came  
 11 in earlier and stood there.

12 **Q. Okay. But before you left your**  
 13 **employment with the 40/40 Club, you had received**  
 14 **the amount of money for all the tips for**  
 15 **parties --**

16 A. If the party --

17 **Q. If the party were paid prior to the**  
 18 **time you left your employment?**

19 A. Right.

20 **Q. And just to clarify, you never**  
 21 **called anyone at the club to see if you could**  
 22 **come in and pick up the --**

23 A. No.

24 **Q. -- additional tips? And you never**

ANITA GILLETTE

102

104

1 A. I strongly don't believe I signed  
2 any kind of paperwork.

3 **Q. What about the sales report or --**

4 A. I think I held on to something that,  
5 you know, was evidence that something was taken  
6 away from me.

7 **Q. But you no longer have that  
8 document?**

9 A. No.

10 **Q. You referred to experiences of other  
11 employees at the 40/40 Club having tips retained.  
12 What employees are you referring to?**

13 A. Other employees that worked there.

14 **Q. Do you have specific knowledge of  
15 any other employee having their tip retained  
16 because of a credit card dispute?**

17 A. I'm not sure it's credit card. I  
18 know like the young lady I spoke of, LaToya. I  
19 know she had issues with money being taken away  
20 from her.

21 **Q. What were the circumstances?**

22 A. I don't recall.

23 **Q. What's the basis for your knowledge?**

24 A. She told me.

103

1 **Q. So not anything you witnessed  
2 firsthand?**

3 A. I think I might have been there the  
4 same day, but I don't remember the specifics.

5 **Q. But your knowledge is based on what  
6 she said to you?**

7 A. Right. Conversations we had.

8 **Q. What did she say to you?**

9 A. That she was owed money, basically.

10 **Q. But you don't know what she was owed  
11 money for?**

12 A. I don't remember specifically.

13 **Q. And you don't recall when that  
14 conversation occurred?**

15 A. During my employment. I don't  
16 remember specifically the day.

17 **Q. Were you ever required to pay for  
18 any breakage or spills?**

19 A. No.

20 **Q. Did you ever break anything?**

21 A. Not that I remember -- well, I don't  
22 know.

23 **Q. Did you ever spill anything?**

24 A. Yeah.

1 **Q. But you weren't required to pay for  
2 it?**

3 A. I don't think so, no. No.

4 **Q. You say that you personally  
5 witnessed this happen to another employee?**

6 A. Yeah. I think a girl -- I think  
7 either something happened with a bottle of  
8 champagne, and I think the house made her pay for  
9 it.

10 **Q. What girl?**

11 A. I don't remember.

12 **Q. Was it a server or a bartender?**

13 A. Server.

14 **Q. And you saw the bottle break?**

15 A. No. She -- I think it was something  
16 she said afterwards.

17 **Q. So you did not personally witness  
18 it?**

19 A. No.

20 **Q. So that's a false statement in  
21 Paragraph 14, where you say you personally  
22 witnessed this happen to another employee?**

23 MR. KIRSCHENBAUM: Objection.

24 That's a misconstruance.

105

1 **Q. That's false; right?**

2 MR. KIRSCHENBAUM: Objection.

3 **Q. You can answer.**

4 A. Well, because the person indicated  
5 to me that it happened during the shift. So I  
6 was there when it happened. I wasn't  
7 specifically -- wasn't there during the breakage.

8 **Q. Were you there when she was paying  
9 for it?**

10 A. Yeah, during cash out, she -- I  
11 think we were all like near each other. And I  
12 know that she definitely came out-of-pocket. I  
13 mean she paid.

14 **Q. Because she told you that?**

15 A. Yeah, well, she took out separately.  
16 She did it.

17 **Q. Did you see her hand someone the  
18 money for the breakage?**

19 A. I don't recall seeing her hand  
20 anybody money, but I know she said she did.

21 **Q. Did she tell you how much she paid?**

22 A. I think it was the sum of the  
23 bottle.

24 **Q. Do you know who she paid that money**

ANITA GILLETTE

106

108

1 to?

2 A. The house.

3 Q. In particular --

4 A. The restaurant.

5 Q. -- who she handed the money to?

6 A. I don't know.

7 Q. Because you weren't there?

8 MR. KIRSCHENBAUM: Objection.

9 That's not what she said.

10 Q. Is it because you weren't there?

11 A. I was there on the day it happened.

12 I wasn't in the room when she handed the money

13 over, no.

14 Q. Does Shawn Carter have an office in  
15 the club?

16 A. Not that I was aware of.

17 Q. Did Juan Perez have an office in the  
18 club?

19 A. Yeah, in the back.

20 Q. Where that was office?

21 A. Behind the front office.

22 Q. Was that his personal office?

23 A. I guess a personal lounge area. I

24 don't know if it was an office. I don't remember

107

1 seeing a desk. It was like a couch, and some

2 baseball stuff.

3 Q. So just an area to spend time in?

4 A. Uh-huh.

5 Q. You didn't see him working there?

6 A. No.

7 Q. Have you ever met Shawn Carter?

8 A. Well, I've seen him come in the

9 restaurant and go upstairs, that's about it.

10 Q. You've never spoken with him?

11 A. No.

12 Q. He's never instructed you to do  
13 anything?

14 A. No.

15 Q. Do you have knowledge of any  
16 employee at the club that's been hired or  
17 promoted by Mr. Carter?

18 A. No.

19 Q. Do you have knowledge of any  
20 employee that's been disciplined or terminated by  
21 Mr. Carter?

22 A. No.

23 Q. Do you have knowledge of any club  
24 policies or procedures that were set by Mr.

1 Carter?

2 A. No.

3 Q. But you have met Juan Perez before?

4 A. Yes.

5 Q. And have you had discussions with  
6 him?

7 A. Not conversations. Maybe hello,

8 that kind of thing, or like, you know, thank you

9 from me -- certain people had to wait on his

10 section -- well, not his section, but wait on

11 him. So you just go in and like ask him what he

12 wanted. And he'd just tell you, I want this: I

13 want that. And that's basically all I can

14 remember ever talking to him about. That kind of  
15 stuff.16 Q. So other than giving you food or  
17 drink orders, did he ever instruct you to do  
18 anything else?

19 A. No.

20 Q. Do you have any knowledge of any

21 employees in the club that he hired or promoted?

22 A. No.

23 Q. Do you have knowledge of any  
24 employee that has been disciplined or terminated

109

1 by him?

2 A. No.

3 Q. Do you have knowledge of any club  
4 policies or procedures that Mr. Perez set?

5 A. No.

6 Q. Do you have any knowledge of any  
7 control at all, either by Shawn Carter or Juan  
8 Perez, over your employment at the club?

9 A. Control over, like my position?

10 Q. Yeah.

11 A. No.

12 Q. Since you left the 40/40 Club, have  
13 you had conversations with any current or former  
14 employees concerning your claims in this lawsuit?

15 A. Uh-huh.

16 Q. Who?

17 A. LaToya.

18 Q. Anyone else?

19 A. No, not that I can remember, no.

20 Q. When did your conversation with  
21 LaToya occur?

22 A. Initially when I called. I called

23 her and left a message. And asked her if she was

24 interested. And she said no. She wasn't